

## **REMARKS**

The present amendment is in response to the Office Action dated December 10, 2008, where the Examiner has rejected claims 28-30. In the present amendment, claim 30 has been amended. Accordingly, independent claims 28, 29, and 30 are pending in the present application. Reconsideration and allowance of pending claims 28, 29, and 30 in view of the amendments and the following remarks are respectfully requested.

### **A. Interview Summary – 37 CFR § 1.133(b)**

Applicant thanks the Examiner for the courteous telephonic interview extended to Applicant's attorney on February 4, 2009. During the interview, claim 30 was discussed and claims 28 and 29 were briefly mentioned. The Noesgaard and Haller references were also discussed. There was no exhibit or demonstration. The proposed amendments discussed are memorialized in the above listing of the claims and the reasoning presented to distinguish claim 30 over the cited references is set forth below. No specific agreement was reached during the interview.

Because the amendment to claim 30 is to clarify the claim language and harmonize that language with the remarks advanced in Applicant's prior paper and considered by the Examiner in the preparation of the office action mailed December 10, 2008, Applicant respectfully requests reconsideration and an indication of allowable subject matter in an Advisory Action.

### **B. Rejection of Claim 30 Under 35 USC § 103(a)**

In the Office Action, claim 30 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,113,809 ("Noesgaard") in view of U.S. Patent No. 6,909,8978 ("Haller"). As set forth in MPEP § 2143, in *KSR International Co. v. Teleflex*

Inc., 550 U.S. \_\_\_, 127 S. Ct. 1727, 82 USPQ2d 1385, 1395-97 (2007) the Supreme Court identified a number of rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The KSR Court noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.

Applicant has amended claim 30 to clarify that the association list, which includes the trigger event, is transmitted to the wireless device along with the media package. In accordance with paragraph 12 of the office action, the claim language now recites this distinguishing feature.

As described in paragraph 53, the media package is arranged using a configuration utility operating on a device that is different from the device 327 (with respect to FIG. 7). The different device may be a computer system that has access to a large number of media objects. The configuration utility on the computer system generates a media package that is arranged for transmission to the device 327. And, if the computer system has information about the device 327, then the computer system also transmits to the device 327 an association list that identifies which trigger event to associate with the media package.

Noesgaard and Haller do not alone or in combination disclose transmitting the association list from the computer system to the wireless communication device. The office action cites Noesgaard at C5,L16-23 as disclosing the step of providing a wireless communication device with an association list that identifies a trigger event to be associated with the media package. This passage, however, does not disclose

identifying a trigger event to be associated with the media package, wherein said trigger event is included in an association list, as required by amended claim 30. This passage also does not disclose transmitting the media package and said association list to a wireless communication device, as required by amended claim 30.

What the cited Noesgaard passage is referring to is the identification of one or more items that are to be included in the media package. This linking of content disclosed by Noesgaard is very different from the claimed steps. Furthermore, this passage does not disclose identifying a trigger event and also does not disclose transmitting a media package and an association list that includes the trigger event to a wireless communication device.

Haller fails to cure the deficiencies of Noesgaard. Specifically, Haller discloses the transfer of a media package to the device (C13,L16-20; C7,L65-C8,L3) and doing so in response to a trigger (C3,L28-30). Haller also discloses sending a message that identifies a media package that is already resident on the device (C8,L3-8) and automatically rotating, e.g., the background image on a laptop (C8,L40-54). What Haller does not disclose, however, is identifying a trigger event to be associated with the media package, wherein said trigger event is included in an association list, as required by amended claim 30. Haller also does not disclose transmitting the media package and said association list to a wireless communication device, as required by amended claim 30.

Accordingly, Applicant asserts that the combination of Noesgaard and Haller do not disclose every step of amended claim 30 and that claim 30 is therefore presently in condition for allowance. Applicant respectfully requests a notice of allowance for claim 30.

**C. Claims 28 and 29 (35 U.S.C. §§ 112 and 102)**

Applicant disagrees with the characterization of the disclosure in paragraph 54 of Applicant's specification and also believes that claims 28 and 29 fully distinguish the cited prior art. Pursuant to the brief discussion during the interview, Applicant reserves the right to pursue the patentability of claims 28 and 29 through an appeal process or continuation application, as appropriate.

**D. Conclusion**

For all the foregoing reasons, allowance of claims 28, 29, and 30 pending in the present application is respectfully requested. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted,

Dated: February 4, 2009

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